

CAUSE NO. 20CV35246

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MARIA YOLANDACHAVEZ Individually	§	IN THE DISTRICT COURT OF
and on behalf Minor LC and Estate of JOSE	§	
ANGEL CHAVEZ, ANGEL CHAVEZ	§	
and JOHNNY CHAVEZ	§	
	§	
Plaintiffs	§	
	§	
VS.	§	SHELBY COUNTY, TEXAS
	§	
TYSON FOODS, INC.	§	
	§	
Defendant	§	JUDICIAL DISTRICT

PLAINTIFFS’ ORIGINAL PETITION

TC THE HONORABLE JUDGE OF SAID COURT:


NOW COMES MARIA CHAVEZ Individually and on behalf of LIZBETH CHAVEZ and Estate of JOSE ANGEL CHAVEZ, ANGEL CHAVEZ and JOHNNY CHAVEZ (“Plaintiffs”), complaining of and about TYSON FOODS, INC., (“Defendant”), and for cause of action would show unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff affirmatively pleads that the aggregate monetary relief sought is over \$1,000,000.00. Therefore, Plaintiff intends to conduct discovery under Level 3 of the Discovery Control Plan, Rule 190.4 of the Texas Rules of Civil Procedure.

JURISDICTION AND VENUE

2. This court has jurisdiction and venue is proper in Shelby County, Texas because the occurrence made the basis of this suit occurred in Shelby County, Texas.

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#### PARTIES AND SERVICE

3. Plaintiffs are individuals residing in Texas.

4. Tyson Foods, Inc. is a foreign corporation licensed to do business in Texas and is doing business in Shelby County, Texas, and may be served with citation through its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

#### FACTS

5. Jose Angel Chavez was an employee of Tyson Foods, Inc. for over twenty years. He was married to Maria Yolanda Chavez. Johnny Chavez, Angel Chavez and Lizbeth Chavez were his children.

6. Tyson Foods, Inc. failed to provide a safe work environment for Jose Angel Chavez after the COVID-19 pandemic began. On or around April 2020, Jose Angel Chavez experienced symptoms from an infection with the coronavirus. On April 17, 2020, Jose Angel Chavez died from complications caused by the coronavirus.

7. Tyson Foods, Inc. failed to protect its employees from the known dangers associated with the coronavirus. Tyson Foods, Inc. failed to perform the following:

- a. Maintain a safe distance between employees;
- b. Provide personal protection equipment such as masks, gloves and/or face guards;
- c. Require employees to not come to work who are sick;
- d. Take the temperature of employees upon entering the building; and/or
- e. Shutdown the plant for a limited time.

8. As a result of Defendant's failure to use ordinary care, Jose Angel Chavez was infected with the coronavirus at work.



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9. Tyson Foods, Inc. is a nonsubscriber.

#### NEGLIGENCE/WRONGFUL DEATH

10. Defendant had a duty to exercise the degree of care that a reasonably prudent employer would use to avoid harm to its employees under the circumstances similar to those described herein.

11. The negligent, careless and reckless disregard of said duty of care by Defendant, consisted of, but is not limited to, the following acts and omissions:

- a. Failure to maintain a safe distance between employees;
- b. Failure to provide personal protection equipment such as masks, gloves and/or face guards;
- c. Failure to require employees to not come to work who are sick;
- d. Failure to take the temperature of employees upon entering the building;
- e. Failure to shutdown the plant for a limited time; and/or
- f. Failure to warn employees when other employees became ill with coronavirus like symptoms.

12. Each of such acts and omissions, singularly or in combination with others constituted negligence which proximately caused the death of Jose Angel Chavez and the injuries which Plaintiffs suffered.

#### DAMAGES

13. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiffs, Maria Chavez Lizbeth Chavez, Angel Chavez and Johnny Chavez have incurred the following damages:

- a. Past and future pecuniary loss;



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- b. Past and future loss of companionship and society;
- c. Past and future mental anguish; and
- d. Loss of inheritance.

14. The Estate of Jose Angel Chavez as a direct and proximate result of the occurrence made the basis of this lawsuit has incurred the following damages:

- a. Pain and suffering;
- b. Mental anguish;
- c. Medical expenses; and
- d. Funeral and burial expenses.

By reason of all of the above, Plaintiffs have suffered losses and damages in a sum of within jurisdictional limits of the Court and for which this lawsuit is brought.

#### EXEMPLARY DAMAGES

15. Plaintiffs incorporate by reference all averment of facts contained in this Petition.

16. Defendant's conduct as described herein constitutes gross negligence.

17. When viewed objectively from the Defendant's standpoint at the time of the occurrence, the Defendant's acts and omissions described herein involved an extreme degree of risk, considering the probability and magnitude of potential harm to others.

18. Defendant had actual, subjective awareness of said risk but proceeded with a conscious indifference to the rights, welfare and safety of others. On information and belief, Defendant knew that employees were sick from the coronavirus and failed to warn other employees. Defendant was aware of the risks associated with employees working in close proximity without proper protection, yet failed to take any corrective or protective measures.





19. Defendant's conduct and conscious indifference to the safety of others proximately caused Plaintiff's injuries and damages, and Plaintiff accordingly sues for exemplary damages.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, respectfully pray that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiffs against Defendant for actual damages; pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiffs may be entitled at law or in equity.

Respectfully submitted,

O'HARA LAW FIRM

*Patrick O'Hara*

By: \_\_\_\_\_

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STATE OF TEXAS  
COUNTY OF SHELBY  
I, Lori Oliver, District Clerk of Shelby  
County, Texas do hereby certify that the  
foregoing is a true and correct copy of the  
original record now in my official custody and  
possession, as property of a court in Vol. \_\_\_\_\_  
Page \_\_\_\_\_ and is on file in  
my office.

Witness my official hand and seal of office,  
this 4/9/2020

LORI OLIVER, DISTRICT CLERK  
SHELBY COUNTY, TEXAS

*[Signature]*



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